



CITY OF NEWPORT BEACH ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE

AGENDA

DATE/TIME: MONDAY, November 17, 2003 – 7:00 P.M.

LOCATION: Police Department Auditorium
870 Santa Barbara Drive

Roll Call

1. Minutes of October 20, 2003 (*draft minutes attached*)*
2. Subcommittee Report on Regent Newport Beach Resort Hotel Notice of Preparation (NOP) (*draft report attached*)
3. Subcommittee Report on St. Mark Presbyterian Church Notice Of Preparation (NOP)
4. Subcommittee Report on Draft EIR for Pacific City, Huntington Beach
5. Subcommittee Report on Supplemental Draft EIR for Centerline (*draft report attached*)
6. Report from Membership Subcommittee
7. Report from EQAC Representative to GPUC
8. Report from EQAC Members on GPAC
9. Report on LCP process
10. Council Member Reports
11. Report from staff on current projects
12. Public Comments
13. Future Agenda Items

NEXT MEETING DATE: December 15, 2003
LOCATION: Police Dept Auditorium

*Draft attachments can be found on the City's website <http://www.city.newport-beach.ca.us>. Click on City Council and then click on Agendas and Minutes. The Attachments are also available in the City of Newport Beach Planning Department, 3300 Newport Boulevard, Building C, 2nd Floor



CITY OF NEWPORT BEACH ENVIRONMENTAL QUALITY AFFAIRS COMMITTEE

DRAFT Minutes 10-20-03

Minutes of the Environmental Quality Affairs Citizens Advisory Committee held at the City Council Chambers, 3300 Newport Boulevard, on October 20, 2003.

Members Present

Richard Nichols, Council Member
Robert Hawkins, Chairperson
Cris Trapp, Vice Chairman
Brent Cooper
Laura Dietz
Thomas Eastmond
Maggie Fitzgerald
Ray Halowski

Tom Hyans
Elaine Linhoff
Nancy Raney
Richard Rivett
Dolores Otting
Louis Von Dyl
Jennifer Winn

Staff Representatives

Sharon Wood, Assistant City Manager
Niki Kallikounis, Planning Department Assistant

Members Not Present

Steve Bromberg, Mayor
Barry Allen
Gary Borquez
Gus Chabre
Carol Hoffman

Phillip Lugar
Jim Miller
Marge Pantzar
Christopher Welsh

The meeting was called to order at 7:00 p.m.

1. Minutes of September 15, 2003

Motion was made by Cris Trapp to approve the minutes as written. Seconded by Jennifer Winn.

Chairman Hawkins commented on the meeting attendance and suggested that the Membership Subcommittee meet to propose rules regarding attendance and to send a report to the City Council regarding the attendance of members. Chairman Hawkins stated that he was concerned about the level of participation in the reports. Cris Trapp volunteered to serve on the Membership Subcommittee.

Sharon Wood noted, for the benefit of the Membership Subcommittee, that the resolution contains a statement regarding attendance, which they might want to refer to.

Motion passed unanimously.

2. Report from Airport Issues Subcommittee on Notice of Preparation (NOP) for John Wayne Airport Expansion

Maggie Fitzgerald reported the Airport Issues Subcommittee II met with City Attorney, Bob Burnham to discuss the Notice of Preparation and Scoping on the John Wayne Airport Settlement Amendment Implementation Plan.

3. Review of CEQA Procedures

Sharon Wood gave a brief review of the CEQA procedures. Discussion ensued with questions and answers.

4. New Projects

a. Environmental documents for Irvine Business Complex office and residential development

Ms. Wood commented, at the last meeting, the City Council asked that EQAC look at these environmental documents. Ms. Wood described the Irvine Business Complex project. Discussion ensued with questions and answers. A subcommittee was appointed as follows:

Cris Trapp, Laura Dietz, Thomas Eastmond, and Dolores Otting.

b. Draft Environmental Impact Report (DEIR) for Pacific City, Huntington Beach

The Draft Environmental Impact Report is available on-line at www.ci.huntington-beach.ca.us/citydepartments/planning - look in the major projects section. Ms. Wood described the project. Discussion ensued with questions and answers. A subcommittee was appointed as follows:

Brent Cooper, Ray Halowski, Jennifer Winn, and Maggie Fitzgerald.

c. Supplemental Draft EIR for Centerline

Ms. Wood noted that EQAC commented on the first DEIR on Centerline. Ms. Wood described the Supplemental DEIR. Discussion ensued with questions and answers. This Supplemental DEIR is on line at www.octa.net/centerline. A subcommittee was appointed as follows:

Louis Von Dyl, Richard Rivett, Tom Hyans, Elaine Linhoff, and Chairman Hawkins.

Chairman Hawkins asked Ms. Wood if there were other projects. Ms. Wood reported that they are awaiting the Notice of Preparation (NOP) for St. Mark Presbyterian Church. The NOP for the Regent Newport Beach was distributed today to the outside agencies and will be available online.

5. Report from EQAC Representative to GPUC

None.

6. Report from EQAC Members on GPAC

Laura Dietz reported there was a presentation on Bolsa Chica. Ms. Wood said they are trying to give the committee presentations from other communities that have faced similar issues as Newport Beach faces.

7. Report on LCP Process

Sharon Wood reported that the technical comments were received from the California Coastal Commission (CCC) staff. Scheduling is in process for the LCP Certification Committee to meet and review these comments.

8. Council Member Reports

Council Member Nichols reported that he called up the house they are building at 3431 Ocean Boulevard.

Council Member Nichols reported on the take over by the City of Coast Highway and asked if that would have an Environmental Impact Report for the committee to look at. Ms. Wood responded that any proposed physical changes will have environmental review.

9. Report from Staff on Current Projects

This report by Ms. Wood was covered under discussion of item 4c.

10. Public Comments

Tom Hyans commented that the biological resources; a discussion of traffic analysis and traffic models as they relate to seasonal impacts; and a presentation by Hoag Hospital on their master plan will be coming up on GPAC.

Chairman Hawkins commented that they received a notice of resignation of Gary Borquez. Mr. Borquez was Mayor Pro Tem Ridgeway's At-Large appointee. Chairman Hawkins said the Membership Subcommittee needs to start pulling together some potential members for EQAC to forward to Mayor Pro Tem Ridgeway for his consideration.

Chairman Hawkins asked Council Member Nichols if he had a candidate to fill the vacancy At-Large. Council Member Nichols responded that he did have a

candidate but it has not been confirmed as yet; and if anyone knew of others who would serve in District 6 to urge them to apply.

11. Future Agenda Items

- Membership Subcommittee to report on the rules of attendance proposal and candidates for Mayor Pro Tem Ridgeway's vacancy
- Subcommittee reports on Irvine Business Complex office
- Draft EIR for Pacific City, Huntington Beach
- Supplemental Draft EIR for Centerline
- Regent Hotel Notice of Preparation (NOP)
- St. Mark Presbyterian Church NOP
- New meeting location because of Police Department lock down for security reasons.

Chairman Hawkins adjourned the meeting at 8:30 p.m.

MEMORANDUM

To: Environmental Quality Affairs Citizens Advisory Committee
City of Newport Beach

From: Regent Newport Beach Hotel Subcommittee
Environmental Quality Affairs Citizens Advisory Committee
City of Newport Beach

Subject: Notice of Preparation ("NOP") for the Regent Newport Beach Hotel
(the "Project")

Date: November 12, 2003

Thank you for the opportunity to comment on the NOP for the captioned Project located on over eight (8) acres along West Balboa Blvd. between 15th Street and 18th Street in the City of Newport Beach, California. We offer the following comments in the hopes of improving the Draft Environmental Impact Report ("DEIR") and the Project.

1. Project Description:

The NOP contains an incomplete and confusing Project Description which the DEIR should complete and clarify. First, the Project Description of the hotel facility proper does not discuss the character and density of the "one and two-story villas;" the DEIR should discuss the number, location, and character of such villas individually and collectively. Also, the Project Description indicates the construction of four (4) public tennis courts. The DEIR must explain how this amenity which is located on the roof-top of the subterranean garage will be easily accessible and available to the public and the mechanisms which will encourage such use.

Further and importantly, the Project Description conflicts with other parts of the NOP. For instance, the Project Description states that the Project includes a subterranean parking garage with one hundred (100) spaces and a forty-one (41) space surface shared parking lot. However, section XV f) notes that, in addition to the above, the Project will include sixty-eight (68) surface parking spaces for hotel uses. The DEIR must clarify and explain in the Project Description the nature and extent of parking resources for the Project and for replacement of existing parking spaces.

In addition, the Project Description fails to discuss employee, contractor and supplier parking and access. The DEIR should discuss these Project features fully and, if necessary, propose adequate mitigation.

Section 1.7 discusses Project Alternatives including the No Project Alternative (Alternative 1), the Reduced Intensity Alternative (Alternative 2), and the General Plan Consistent Alternative (Alternative 3). Alternative 2 is unclear: the NOP fails to discuss the nature, extent and rationale for Alternative 2's features. Alternative 3 is likewise unclear: it fails to discuss clearly the nature, extent and character of the alternative features including marine recreation and other uses. The DEIR should explain each of these Alternatives clearly.

Finally, we have several formatting and identification concerns. First, the contact information for Mr. Campbell appears to be incorrect and inconsistent. Second, the maps are useless: they lack sufficient detail to inform the public of the nature of the Project and its features. The DEIR should include a detailed set of maps for location of the Project, its design and its features.

2. Environmental Checklist and Discussion:

a. Aesthetics:

The NOP states that the view corridors to Newport Bay from Balboa Boulevard are currently obstructed by the existing improvements on the site and that the Project will provide limited view corridors of the Bay. However, existing views are over the top of the single story structures, and include palm trees along the Bay, the tops of masts from sail boats on the Bay and the hills in the background. With the addition of the Project's two-story structures, portions of the existing view corridors to the Bay from Balboa Boulevard will be eliminated. The Environmental Checklist Responses indicates that the Project will include public access view corridors; however, the Project description does not address these view corridors. The DEIR should address all features of the Project including the two story structures and the subterranean garage with roof top tennis courts, explain the impacts of the two-story structures on Balboa Blvd. views.

In addition, the NOP states that a "visual simulation analysis will be conducted and impacts on view corridors will be evaluated" and mitigation measures will be recommended as appropriate. The DEIR should include a visual simulation analysis. Through this analysis, the DEIR should analyze and address any impacts on the views to the Bay by the introduction of two-story structures. Further, the DEIR should analyze and address Project related aesthetic impacts to the character of Balboa Boulevard, which will be substantially altered by the volume and mass of the structures that are proposed.

Also, the DEIR should analyze the impacts of lighted tennis courts which will be elevated approximately five feet above grade by the proposed project.

b. Air Quality:

Section III a) recognizes that the Project may be inconsistent with "the local and regional growth projections and the SCAB Air Quality Management Plan."

The NOP notes that the DEIR may include the Project's consistency with such plans. Such discussion must include a discussion of the consistency of existing uses with such plans.

Sections III b), c) and d) recognize that the Project may create air quality impacts and indicates that the DEIR will include an appendix on air quality impacts. Such appendix and all appendices should be part of the DEIR and be generally available to the public.

c. Biological Resources:

The NOP states that the Project site is directly adjacent to the Newport Bay which "supports species such as eelgrass . . . and invertebrates and also serves as a foraging area for federally and State listed endangered and threatened bird species."

However, the Checklist and Discussion conflicts with this explanation: "the Project site includes a new twelve (12) slip marina which may affect biological resources in the Newport Bay which are quoted above. The DEIR should correctly identify the Project site, recognize Project related impacts on biological resources and propose any necessary mitigation.

d. Cultural Resources:

The NOP recognizes the developed character of the Project site. The DEIR should recognize that the Project site has not been studied. If, however, human remains or other cultural resources are found during Project construction, the DEIR should explain the procedures proposed for preserving such resources and notifying the appropriate regulatory entities.

e. Geology and Soils:

The Checklist recognizes that the Project may have potentially significant impacts on geology and soils unless mitigation occurs. For instance, Section IV a) iii) notes that the project site is located in an area susceptible to liquefaction and Section IV d) notes that, due to the Project's proximity to Newport Bay, soils may spread laterally toward the bay and result in instability.

Although Section IV b) recognizes that the Project will require excavation, it states that such excavation is minimal. The DEIR should explain the exact nature and extent of such excavation, include a geotechnical report which discusses, explains and, if necessary, propose mitigation for any impacts of the Project and associated excavation on the soils at the Project site.

f. Hazards and Hazardous Materials:

Section VII recognizes that the Project may create significant impacts unless mitigation occurs. The DEIR must explain the nature of such impacts and propose the necessary mitigation.

For instance, Section VII b) concludes that the Project likely will have no significant impact or significant hazard to the public or the environment due to accidents or upsets involving hazardous materials. The DEIR should consider this aspect seriously. The Project site may have hazardous materials in the land to be excavated and/or the structures and improvements including trailers, mobile homes and boats (if any) which may require removal. Removal of such materials and structures could create the potential for upset or accident since the materials must be moved to a secure disposal location. The DEIR must explain this activity, discuss the threshold of significance, study the significance of the impact and, if necessary, propose mitigation.

Likewise, Section VII d) recognizes that the Project may create significant impacts which will require mitigation because the Project is located on a site which may have hazardous materials and/or the potential for release of such materials. Section VII d) does not discuss whether or not the excavation of soils or dredging of the bay may release such materials and whether simply the removal of structures and other improvements may create such potential. Further, this section also fails to consider or promise consideration of historic uses in and around the Project site including any uses involving potentially hazardous materials which may have migrated to the site. In any event, the DEIR should fully discuss these aspects of the Project, e.g. soils removal, historic uses including adjacent uses which may affect the site and other issues, any dredging and removal of structures and improvements, and if necessary, propose adequate mitigation.

g. Hydrology and Water Quality:

Section VIII recognizes that the Project will affect existing drainage and may create significant impacts on hydrology and water quality without mitigation. The NOP notes that the Project will require a myriad of permits from federal, state and local authorities.

The DEIR should explain in detail the potential impacts including short term construction impacts and long term operational impacts of the Project. Then, the DEIR should discuss, not merely the permitting processes and promise of compliance, but propose actual measures which will be part of the Project's application and proposed permit. Further, the NOP promises that a hydrology study will be prepared, summarized in the DEIR and included as an appendix. In addition to these, the Appendix should be generally available to the public.

Section VIII h) indicates that the Project with its proposed excavation and possible dredging will have no impacts on groundwater. The DEIR should explain and expand this discussion and explain how, with the excavation, the Project will have no impact on groundwater resources. Indeed, construction of the Project including the subterranean garage may require de-watering facilities. If so, then the DEIR should reconsider the significance of Project impacts on groundwater.

h. Land Use and Planning:

Section IX b) recognizes that the Project potentially conflicts with applicable land use regulations. Specifically, it states that the project will require a General Plan Amendment, a zone change, an amendment to the Land Use Plan of the Local Coastal Program, the adoption of the Regent Planned Community District Plan and a Use Permit. It also states that the DEIR will include an evaluation of the Project's compatibility with existing land uses and environmental plans and policies of the City, and mitigation measures will be recommended as appropriate.

Section IX d) notes that the Project is not in the vicinity of a habitat conservation plan. However, the City is in the process of developing a plan for eel grass. The DEIR should discuss these efforts fully, identify any impacts and, if necessary, propose any necessary mitigation.

i. Noise:

Section XI recognizes that the Project may create significant noise impacts unless mitigation occurs. The DEIR must fully analyze and explain the nature and extent of any such impacts including all short term impacts relating to construction and all long term impacts relating to the operation of the Project. In the discussion of XI a), b), c), and d), the NOP recognizes that noise impacts of the Project may be different from existing or the no project alternative due to increased traffic.

However, this is only the tip of the iceberg: both long term and short term impacts will arise which will not occur in the no build alternative. The DEIR should thoroughly discuss all such impacts including noise associated with the hotel and its activities where little or no such noise occurs in the no build alternative.

Further, Section XI's discussion is one-sided: it concerns only noise receptors which are external to the Project. The DEIR should also consider, analyze and discuss Project internal noise receptors, e.g. guests, visitors, employees and contractors, in order to determine fully the nature and extent of the Project impacts. If necessary, the DEIR should provide mitigation for this internal impact.

j. Population and Housing:

Section XII recognizes that the Project may create less than significant impacts on housing in the City. Section XII a) estimates that the Project may result in an increase of fifty-eight (58) employees for the hotel. Given the character of the hotel, e.g. an upscale five star resort, this figure seems low even for the reduced scale of the Project. The DEIR should fully analyze this aspect, provide a range of employee numbers, and discuss the impacts of a projected maximum number of employees. The DEIR should also discuss the availability of housing for any such maximum number of workers including any workers which may require access to low cost housing.

Section XII b) indicates that, although the Project may displace existing residents of the mobile home park, most of these are not full-time residents and their mobile homes are merely vacation homes. Although it may be advisable to change the use of the site, the DEIR must fully discuss any displacement including removal of any low cost housing including senior affordable housing which is present on the site.

k. Public Services:

Section XIII i), ii) and v) indicates that the Project may create potentially significant impacts on public services including fire and police services. Although the NOP indicates that full discussion of such impacts awaits the preparation of the DEIR, we believe that the DEIR should fully discuss impacts on public services including fire and police in view of the heightened security consciousness in the City and throughout the country. This discussion should include all necessary information including for example the number of project calls for any such services as well as the numbers of calls for the no build alternative.

l. Recreation:

Section XIV recognizes that any Project related impacts on recreation will be non-existent or less than significant. Section XIV b) is troubling: although it concludes that the Project will have a less than significant impact on recreational facilities, it concludes that any significant impacts may require mitigation. The DEIR should clarify this and other issues relating to recreation.

Section XIV a) indicates that the Project will have no impact on the use of existing recreational resources. The DEIR should carefully consider this conclusion and analyze the nature and character of the proposed use. We understand that the one rationale for the Project is that it will increase access to and views of Newport Bay. If so, then the DEIR should analyze the impacts of any such use and propose necessary mitigation.

For example, currently the public may gain access to the Bay through the existing mobile home park. We understand that the Project will increase such access. The DEIR should address any impacts due to this increased access and if necessary, propose mitigation.

Section XIV b) addresses the Project's recreational features. As indicated above, the conclusion is confusing: Significant impacts requiring mitigation or no significant impacts. Likely the former is the case.

Currently, the Project site includes four (4) public tennis courts which are easily accessible. The Project proposes a roof top alignment above the proposed subterranean garage. The DEIR should discuss public use and access to this roof top facility as well as guest use and access. The DEIR should propose necessary mitigation in case public use is adversely affected by the Project. In addition and as discussed below, the DEIR should address public parking for any such recreational use, e.g. use of the roof top tennis courts.

In addition, currently the Project site has docks and related facilities for boat mooring. The DEIR should address the Project related use of such recreational space, fully address any Project related impacts including use of limited number of spaces and, if necessary, provide mitigation.

Further, as indicated above, the Project is supposed to increase public access to the Bay and Bay front beaches. The DEIR should discuss this Project amenity and benefit, analyze any impacts including impacts on water quality and/or recreation, and if necessary, propose adequate mitigation.

Also, the Project proposes to replace many existing on site recreational facilities including tennis courts, community center/Girl Scout Center and children's play area. The DEIR should discuss and analyze the compatibility of such uses with the proposed hotel, any impacts of the hotel on such uses and/or vice versa, and, if necessary, mitigation for such impacts.

m. Transportation and Circulation:

Sections XV a) and b) recognize that the Project may create significant traffic impacts which may require mitigation. The discussion promises a traffic study, and if necessary, mitigation or Project features which may address such problems. However, the discussion fails to appreciate the seasonal character of traffic along Balboa Blvd. The DEIR should incorporate the analysis promised by the NOP and also discuss, analyze and if necessary propose mitigation for Project impacts on seasonal traffic problems in the area and the Project's impacts on such traffic problems.

Section XV d) concludes that the Project will have no impact related to design hazards. However, this conclusion lacks support. The DEIR should discuss and analyze the Project's design and impact on the intersections at 15th, 16th, 17th and 18th Streets with Balboa Blvd. This analysis should address the Project impacts on driver's lines of sight at these various intersections for drivers gaining access to Balboa Blvd.

In addition, the NOP contains a truncated Project description which may affect Section XV d)'s analysis. For instance, this section does not address access for service vehicles to the 100 car garage by way of the alley from 15th Street and next to the Veterans Park and barbecue area where there is no sidewalk.

Section XV f) indicates that the Project may result in inadequate parking. As indicated above, the Project description including the description of Project parking demands and resources is incomplete. First, the nature of the shared parking is unclear and requires specificity. The DEIR should fully discuss the nature of such parking plan, its ability to meet the parking demand and any necessary mitigation.

The NOP promises that the DEIR will incorporate a parking study as an appendix. As indicated above, the appendices including the parking appendix should be generally available.

More importantly, the parking study should address all of the Project's parking demands including the Project's guests, employees, service providers and consultants as well as the demands of the other uses on the site. In addition, the parking study should also address parking in the area including the Project's potential impacts on street parking. For instance, will the Project result in a loss of street parking because of dedicated turn lanes? Also, will special events at the Project affect on-street parking including metered and non-metered parking adversely? The DEIR should analyze these and other issues, and if necessary, propose appropriate mitigation.

n. Mandatory Findings of Significance:

Section XVII analyzes the mandatory findings including the Project's impact on and degradation of the environment, cumulative impacts and any impacts which may cause substantial adverse effects on human beings. Although Section XVII notes that the Project may result in potentially significant impacts for each category, it fails to mention whether the DEIR will consider mitigation measures for any such impacts. We encourage the preparers to include a discussion of mitigation measures for any such impacts.

3. Conclusion:

Thank you for the opportunity to comment on this important Project. We hope that these comments will further perfect the DEIR and the Project.

MEMORANDUM

To: Environmental Quality Affairs Citizens Advisory Committee ("EQAC")
City of Newport Beach

From: Sub-Committee for Centerline 2 for EQAC
City of Newport Beach

Subject: U. S. Department of Transportation, Federal Transit Administration's ("FTA") and Orange County Transportation Authority's ("OCTA") SECOND Supplemental Draft Environmental Impact Statement/Revised Environmental Impact Report ("SDEIS/RDEIR") for the Orange County CenterLine Project (the "Project")

Date: November 12, 2003

Thank you for the opportunity to provide these comments on the **SECOND** Supplemental Draft Environmental Impact Statement/Revised Environmental Impact Report (the "Second SDEIS/RDEIR" or the "Document") for the Project prepared by FTA and OCTA. Collectively, we refer to FTA and OCTA as the "Agencies."

To the extent applicable, these comments incorporate our comments on the earlier Supplement Draft Environmental Impact Statement/Revised Environmental Impact Report.

I. A Brief Summary of Our Concerns.

We recommend that the Agencies reconsider the Second SDEIS/RDEIR, revise the document to address the Project's impacts in connection with the John Wayne Airport and flight schedules, natural resources in and around the City and other issues discussed below, and recirculate the document for public comment. We make these recommendations for several reasons:

- (1) The Second SDEIS/RDEIR fails to describe the Project fully and accurately, thereby undercutting the public's ability to review the Second SDEIS/RDEIR, determine impacts of the Project and evaluate mitigation measures.
- (2) The Second SDEIS/RDEIR fails to discuss, identify, analyze and mitigate the Project's impacts of increased passenger loads to the John Wayne Airport;
- (3) The Second SDEIS/RDEIR fails to recognize, analyze and mitigate the Project's impacts on the jewel of Newport Beach—San Diego Creek and the Back Bay.
- (4) The Second SDEIS/RDEIR contain other failings discussed below; the Agencies should address these and other issues.

II. Introduction: EIR/EIS and Legal Standards.

An EIR constitutes the heart of CEQA: An EIR is the primary environmental document which:

“... serves as a public disclosure document explaining the effects of the proposed project on the environment, alternatives to the project, and ways to minimize adverse effects and to increase beneficial effects.”

CEQA Guidelines section 15149(b). See California Public Resources Code section 21003(b) (requiring that the document must disclose impacts and mitigation so that the document will be meaningful and useful to the public and decisionmakers.)

Further, CEQA Guidelines section 15151 sets forth the adequacy standards for an EIR:

“An EIR should be prepared with a sufficient degree of analysis to provide decision-makers with information which enables them to make a decision which takes account of the environmental consequences. An evaluation of the environmental effects of a proposed project need not be exhaustive, but sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible. Disagreement among experts does not make an EIR inadequate, but the EIR should summarize the main points of disagreement among the experts. The courts have looked not for perfection but for adequacy, completeness, and a good faith attempt at full disclosure.”

Further, “the EIR must contain **facts and analysis**, not just the agency's bare conclusions or opinions.” Concerned Citizens of Costa Mesa, Inc. v. 32nd District Agricultural Association. (1986) 42 Cal. 3d 929.

In addition, an EIR must specifically address the environmental effects and mitigation of the Project. But “[t]he degree of specificity required in an EIR will correspond to the degree of specificity involved in the underlying activity which is described in the EIR.” CEQA Guidelines section 15146. Some projects such as general plan adoption deal with general issues; but CEQA also applies to small projects which require merely a conditional use permit. The analysis in an EIR must be specific enough to further informed decision making and public participation. The EIR must produce sufficient information and analysis to understand the environmental impacts of the proposed project and to permit a reasonable choice of alternatives so far as environmental aspects are concerned. See Laurel Heights Improvement Association v. Regents of the University of California (1988) 47 Cal. 3d 376.

Finally, in connection areas near airports, a recent amendment to the CEQA Guidelines requires:

“When a lead agency prepares an EIR for a project within the boundaries of a comprehensive airport land use plan or, if a comprehensive airport land use plan has not been adopted for a project within two nautical miles of a public airport or public use airport, the agency shall utilize the Airport Land Use Planning Handbook published by Caltrans’ Division of Aeronautics to assist in the preparation of the EIR relative to potential airport-related safety hazards and noise problems.”

CEQA Guidelines section 15154(a).

The federal standards established for evaluating an EIS may be more relaxed than the California standards for evaluating an EIR. Nonetheless, an EIS should be a self contained document which informs the decisionmakers and the public “without the need for undue cross-reference.” Baltimore Gas and Electric Co. v. Natural Resources Defense Council (1983) 462 U.S. 87, 99-101, n. 12 and 13.

Finally, as we indicated in our first comments on the SDEIS/RDEIR, the CEQA Guidelines section 15160 discusses various types of EIRs. Article 11 of the CEQA Guidelines does not address a “Revised EIR.” Further, a review of the CEQA case law reveals no such use.

II. Procedural Issues: The “Revised DEIR” and Document Availability.

The Executive Summary attempts to explain the Project History and the Decision Making Process. The Summary attempts to explain the need for the Supplemental Environmental Impact Statement and the Revised Environmental Impact Report.

However, as with the SEIS/RDEIR, this section fails to explain why this Second SEIS is supplemental and this Second DEIR is revised. Indeed, Footnote 1 fails to clarify anything: it simply provides a shorthand method of identification without any explanation of why and how the environmental documents for the Project continue to have successive but different iterations. It is probably better to start with a new and fresh environmental document.

Also and as with the SEIS/RDEIR, the Agencies have attempted to make the Document and the earlier DEIS/DEIR for the Project generally available to the public. However, this attempt has met with difficulties. First and foremost, the Document is available on CD-ROM and on the OCTA website. Although the Document is available in this electronic medium, these applications are not generally available to the public.

Moreover, the Document’s current format is difficult to read in the electronic medium: the paper copies are superior. Unfortunately, the paper copies are not generally available.

Further, paper copies of the document are available at the City of Costa Mesa. As noted above, the City has promoted the Project. Unfortunately, the document is not available within the City of Newport Beach: the document is not available at the City of Newport Beach's Public Library or anywhere in the City.

As we suggested in our comments of the SEIS/RDEIR, we suggest that in connection with future Project documents, the Agencies make other such documents fully electronic and allow for ease of use. Either that, or provide the public with paper documents.

III. Section 1: Statement of Purpose and Need.

As indicated above, this Section purports to discuss the background of the Project and the need for the Document. However, this Section fails to discuss and explain in a clear fashion the need for a Revised EIR, instead of some Addendum or other document. Moreover, this appears to be a project in search of an environmental document.

Section 1.0 states that OCTA is the lead agency:

"OCTA is the primary transportation agencies for the cities and unincorporated areas of Orange County; it provides transit services in Orange County . . ."

However, Section 1.5.1, "Project History," describes the history of the Project. Among other things, it recognizes that, while OCTA voted to delay the Project, three cities— Santa Ana, Costa Mesa, and Irvine, two of which border the City of Newport Beach— proposed the current preferred alternative. That is, three cities carried the ball on this Project; OCTA is not acting as a lead agency for the entire County of Orange but simply for these cities.

In addition, the Document refers to an undefined phrase: "Refined Planning Area" as the area of the Project. However, nowhere does the Document discuss the nature and extent of this refinement. The Document notes that the refined area includes the Three Cities, "comprises only 7 percent of the county's total area," and ". . . includes approximately 18 percent of the county's population and 27 percent of the county's employment." Given this concentration of jobs and population, the Document must, but fails to, thoroughly analyze the Project's impacts on this dense population and employment/commercial center.

As with the SEIS/RDEIR, one of the reasons for this SDEIS/RDEIR is the discussion of the new Alternatives. As discussed immediately below, the Alternatives discussion is inadequate: the Agencies should continue to revise and improve the Document so that the Alternatives discussion fulfills its promise and explains the need for continued revisions to the Project and its description.

Further, and more importantly, Section 1.3 purports to discuss "the Need for the Project." Among other things, Section 1.3 notes that the Project "provides a necessary component of that [efficient multimodal transportation] network within the Cities of Santa Ana, Costa Mesa and Irvine." However, the stated problems go far beyond the needs of these three cities. Section 1.3

identifies five problems: (1) "Freeway and arterial congestion exceeds acceptable levels and will continue;" (2) "Highway and arterial capacity improvements are feasible but difficult to implement;" (3) "Existing transit system is affected by highway congestion;" (4) "Existing transit serves competing demands;" and (5) "Population and employment in the area will continue to grow, increasing demand for alternative means of transportation." **For any segment in the County of Orange including the three cities but also the City of Newport Beach, these statements are true.** This Document should focus on the needs of the particular area, e.g. the three cities, and state why these cities should receive this special benefit. Indeed,

Section 1.5.2 addresses the Planning Context for the Project. Section 1.5.2.1 discusses the Regional Setting for the Project. Although identifying several settings including John Wayne Airport and University of California, Irvine, the Document fails to discuss at all the City of Newport Beach, area beaches to which the Project may bring additional visitors, San Diego Creek and the Upper Newport Bay. The Agencies should revise, supplement or otherwise correct the Document to discuss specifically the Project's impacts on the City, the Airport and the City's resources including San Diego Creek and the Upper Newport Bay.

Section 1.5.2.3 discusses "Transportation System and Travel Trends." This section discusses much of the transportation system for the County but fails to focus on the Project area. Moreover, this section discusses Bus Transit. However, the sub-section which addresses Bus Transit fails to discuss the nature and fuel type for OCTA buses. In particular, it fails to address any OCTA buses with alternative fuels.

IV. Section 2: The Project Alternatives and the Need for Specificity.

Although the First SDEIS/RDEIR discussed the Locally Preferred Alternatives ("LPA") and a Minimum Operable Segments ("MOS"), the Second SDEIS/RDEIR fails to discuss the MOS. Apparently, the Project is less than the original MOS. The Document should be revised to explain this difference and to discuss why a smaller MOS is really a viable operable segment.

Also, the Document states that, although the planning area is smaller and the Project covers much less area, the "No-Build Alternative is the same as the No-Build Alternative analyzed in the 1999 DEIS/DEIR and the 2000 SDEIR/RDEIR." Given the smaller area, the No-Build Alternative must be smaller.

However, Alternatives discussion in the SDEIS/RDEIR fails for several reasons. First, the environmental analysis in the Document does not contain enough information and specifics to compare the potential impacts of the three new alignments and the three original alignments as well as the impacts of the various MOS Alternatives. This problem is significant: if Alternatives—both the alignments and the MOS—lack specifics, neither the public nor the decisionmakers can determine the extent of the impacts and the nature and extent of the proposed mitigation.

Further, not only is the impacts discussion at a general level but the proposed mitigation floats at a similar abstract level. CEQA does not require "floating mitigation" but real

mitigation. However, because of the impacts discussion remains at a general level, the proposed mitigation suffers.

However, unlike the First SDEIS/RDEIR which failed to discuss which alignment Alternative and which MOS Alternative would be the environmentally superior alternative, the Second SDEIS/RDEIR admits that the No Build Alternative is the environmentally superior alternative. The Second SDEIS/RDEIR fails to take the logical step: certifying the environmentally superior alternative: the No-Build Alternative.

V. Section 3.0: Transportation: Parking, Roadway Impacts and Airport Impacts?

Section 3.0 of the Document attempts to address Transportation Impacts: impacts on transit service and ridership; roadway network impacts and parking impacts. However, this section fails to address transportation impacts to an important transportation feature adjacent to the City: John Wayne Airport.

The Project will transport many passengers to and from the Airport and this increase will affect the Airport and its flight scheduling. Yet the Document contains no discussion at all of this impact or any proposed mitigation. The Agencies must again revise the Document to include a detailed discussion of this transportation and impact, and provide specific mitigation for any such impact. Indeed, any impact to the Airport will affect the City. Hence, any airport mitigation must include mitigation for the City.

The impacts analysis for transportation raises several problems. First, for all build alternatives, the Project would require dividing existing communities, eliminating through traffic and creating cul-de-sacs at "minor intersections along Bristol Street." Although the Document recognizes that this circulation impact will affect all neighborhoods in which cul-de-sacs are installed, it fails to appreciate the nature and extent of the impact. The Document actually maintains that such interruptions and division "would be offset by the reduction in conflict potential realized at their intersections with Bristol Street" and "these cul-de-sacs may add to safety and security of their neighborhoods by **substantially** reducing the flow of traffic on their streets." SDEIS/RDEIR at 3-15 (emphasis added).

This optimistic analysis falls far short of the realistic analysis required by CEQA. Although significant traffic impacts, e.g. substantial reduction in traffic flow, may have ancillary benefits, those benefits cannot erase the impact. The Document should be revised to avoid an overly optimistic assessment of traffic impacts and provide an appropriate level of analysis for such impacts with appropriate mitigation if necessary.

In addition, the impacts analysis for parking resources creates an even worse problem: For all build alternatives, the Project would result in the removal of substantial on and off street parking **with many potentially significant impacts left unmitigated**. The Project alignment is street level for all build alternatives throughout most of their reaches. This street level alignment will result in the loss of on-street as well as off-street parking. In the truncated planning area, parking resources are already compromised; further losses will exacerbate the existing problem.

The Document recognizes these impacts. For on-street parking, the Project will result in the loss of approximately 230 spaces. The Document proposes to mitigate such impact by creating additional parking in surplus right of way, propose additional parking in Project related structures, and acquire additional property if necessary. However, the Document fails to discuss whether or not there will be sufficient surplus property for such uses or surplus Project parking for such uses, and whether or not additional lands are available for purchase.

This last— no lands for purchase— affects the off-street parking resources more severely. Section 3.3 recognizes that the Project may create significant impacts for off-street parking resources including resources in and around John Wayne Airport. Although this section maintains that ample property remains in the area of John Wayne Airport for purchase, Section 3.4 which discusses mitigation measures indicates that “(Because adequate land may not be available to provide replacement parking at each location, a potentially significant impact would remain.” That is, after mitigation, the Project will still create significant and unmitigated impacts.

Alternatives to this finding are surely available. For instance, create substantial parking structures in the affected areas; condemn additional lands for such purposes; or create a bussing/parking plan for such areas. Of course, such mitigation may itself have significant impacts.

Further, although the Project will surely affect traffic in the vicinity of the City of Newport Beach, e.g. traffic to and from the University of California, Irvine, and traffic to and from John Wayne Airport, the impacts analysis addresses only one intersection near the City of Newport Beach and no intersections within the City of Newport Beach. Clearly, the Document should be revised to address Project related impacts to the intersections of Campus Drive and Jamboree, Campus and Von Karman, and Campus and Macarthur, as well as University and Jamboree.

Finally, as with the First SDEIS/RDEIR, the Document dips in and out of specifics and soars in generality: in order to satisfy its disclosure obligations and its informational requirements, the Document must deal in specifics. CEQA does not sanction the promise of later specifics. The Agencies should revise the Document to either include specifics or tread at a general programmatic level.

VI. Section 4.1: Land Use Impacts (Don't Forget Newport Beach and JWA).

The Document varies the area of analysis depending upon the result of the analysis: as discussed above and as indicated in the Document, the Second SDEIS/RDEIR's transportation analysis restricts the area to the large area from state highways to state highways. The land use analysis considers only land use in the Three Cities. This analysis fails to include the impacts on land use in and around the University of California, Irvine and/or the City of Newport Beach. Further, the Document indicates that the setting includes sensitive habitat along the Upper Newport Bay including the San Joaquin Wildlife Sanctuary and importantly the Irvine Business

Complex ("IBC"). We ask: shouldn't the City of Irvine bear the land use and transportation costs of its significant expansion of the IBC.

Further, the Document states the applicable land use documents are the Three Cities' General Plans, UCI's Master Plan, JWA's Master Plan, and, surprisingly, the City of Orange. What about the City of Newport Beach which borders both the Cities of Costa Mesa and Irvine? Also, the City of Newport Beach borders the destinations of the Project: UCI and JWA. What are the Project related impacts to land use in the City of Newport Beach.

The Document should include a discussion of the land use requirements for the City of Newport Beach which is adjacent to JWA, the Cities of Irvine and Costa Mesa and JWA. The City of Orange is important to this process but so is the City of Newport Beach.

Importantly, the JWA Settlement Agreement applies here. The Agencies should consult and review the settlement agreement, discuss it in the Revised Document and provide any necessary mitigation.

Further, Section 4.3.1 states that the land use analysis includes a policy analysis to determine the consistency of the alternatives with relevant land use plans. However, we question whether the DEIS/RDEIR can provide any policy analysis: Policy analysis is for decisionmakers, not staff or consultants.

Finally and noting the Document's unique "Policy Analysis," the Document is inconsistent. The "Executive Summary" indicates that the Project and its associated properties and attributes are inconsistent with the the City of Irvine's General Plan. However, Section 4.1.3 appears to indicate that the Project is consistent with the Three Cities' General Plan. However, this is incorrect: the City of Irvine's General Plan and zoning ordinance recognize the importance of San Diego Creek. The Project may create significant impact in this area. The Project threatens to create significant impacts in this area even with mitigation.

The Document should be revised to resolve the inconsistencies recognized above and provide necessary mitigation for any Project related impacts.

VII. Section 4.2: Neighborhood Impacts.

The Document recognizes that the Project with its tracks, parking facilities, and other related facilities will affect neighborhoods. However, because of various alleged Project benefits and other features, the Document concludes that Project will not generate any significant impacts on neighborhoods in the vicinity of the Project.

However, each Build alternative will divide existing neighborhoods with Project tracks and other facilities. The Document should analyze such impacts and not merely assume that no impacts exist.

Further, each Build alternative will result in displacement of residential and commercial units. The Project will significantly affect the commercial units. Section 4.2.4.2 recognizes that the Project will result in significant **and unmitigated impacts** on commercial elements in various neighborhoods through which Build Alternative 1 travels. In addition, Sections 4.2.4.3, 4.2.4.4 and 4.2.4.5 recognize that all other Build alternatives result in similar and unmitigated impacts on commercial units in each of the Build alternatives.

Such displacement is merely a policy choice, an improper policy choice made by the Document. The Document should be revised to include additional alternatives which will not have such impacts on commercial units. It may be that the Project will have significant and unmitigated impacts on neighborhoods **regardless of the alignment**. The Agencies should recognize this and make the policy choice themselves about which type and which specific neighborhoods are affected.

More importantly, the analysis for Project related impacts on neighborhoods is too narrow: it fails to analyze the impacts on various communities including the various cities in the vicinity of the Project. The Document should be revised to include a regional analysis of neighborhood impacts.

VIII. Section 4.10: Air Quality Impacts and Benefits?

Section 4.10.3 concludes that all Build Alternatives would reduce harmful emissions due to reductions on automobile and bus trips. However, as to bus trips, the Document's analysis is incorrect: various buses in OCTA's fleet have substantially reduced emissions. The Document should be revised to discuss the appropriate mix of buses in OCTA's inventory.

IX. Noise and Vibration: What about San Diego Creek, San Joaquin Marsh and the Upper Newport Bay, Round II?

Round I included our comments on the First SDEIS/RDEIR. This Section incorporates those comments. In addition, we offer the following comments:

As with the First SDEIS/RDEIR, although the Document recognizes that the Project will generate significant noise impacts for all Build Alternatives which impacts require mitigation in the form of sound walls, the Document contains no discussion of noise impacts on adjacent areas including areas in and around the City of Newport Beach such as the San Joaquin Marsh. Although this resource is not located within the City of Newport Beach, it forms part of the Newport Bay ecosystem. The Upper Newport Bay Ecological Reserve is a regionally significant natural resource located within Newport Beach. The Document should address any potential impacts to habitat in the San Joaquin marsh and any indirect impacts to Upper Newport Bay. Following identification of the impacts to these sensitive resources, the Document should propose mitigation including installation of a sound wall for such mitigation.

VII. Section 4.14: Water Resources Impacts: What about SD Creek, SJ Marsh, and Upper Newport Bay, Round II.

As with the First SDEIS/RDEIR, the Document's vision of water resources in the vicinity of the Project is myopic: Section 4.14 addresses only water resources within the Three Cities. The Document recognizes that the Project is in the vicinity of San Diego Creek, San Joaquin Marsh and the Upper Newport Bay. However, the Document fails to address any significant impacts on these resources.

As indicated above, the Document lacks specifics about many Project features including parking and Project access. Given the lack of specificity with respect to parking and access to the Project and its stations, the Document cannot address the impact of impervious surfaces on drainage and groundwater. Nonetheless, without quantifying the extent of such impervious surfaces, the Document concludes that the amount of impervious surfaces related to the Project would not affect drainage or groundwater recharge. The Agencies should address the impacts of the impervious surfaces and propose appropriate mitigation.

Further, Build Alternative 2 includes subterranean features. The Document notes that, due to such features, the Project may be subject to inundation from groundwater. Section 4.14.4.1 indicates that mitigation for this impact may include either discharges to sewage facilities or surface water discharges which will require permitting by various regulatory entities. This Section impermissibly defers this mitigation requirement: for sewage facilities discharges, the Document should be revised to discuss the capacity of such facilities to ensure that the waste water facilities have the capacity for such discharges. As to surface water discharges, the Document should be revised to discuss mitigation and features for obtaining permits for such discharges.

VIII. Section 4.15: Natural Resource Impacts: What about SD Creek, SJ Marsh, and Upper Newport Bay, Round III.

The Upper Newport Bay Ecological Reserve is a regionally significant natural resource located within the City of Newport Beach. None of the Build Alternatives are located within the City. Although the Document attempts to analyze impacts to natural resources upstream from the City, the Document fails to consider the extent of such impacts and fails to trace the downstream impacts for any such upstream impacts. In particular, the Project has the potential to affect the San Joaquin Marsh and Newport Bay.

Section 4.15.2 states that the Agencies caused two biological surveys to be conducted for the Document and the Project. These studies occurred during the spring of 2003. However, the Document fails to discuss whether surveys at other times for other species would be appropriate and whether existing resource literature indicates whether any other such surveys are necessary. The Document should be revised to include such a discussion, if necessary, propose and conduct additional studies and surveys, and propose any necessary mitigation.

In addition, for each Build Alternative, the Project may create potentially significant impacts in and around San Diego Creek due to (1) placement of Project columns in areas of protected habitat and species, and (2) shadows created by the Project as it passes over San Diego Creek. Section 4.15.4 discusses mitigation measures for such impacts. For impacts related to column placement, Section 4.15.4 indicates the Agencies will attempt to place columns so as to avoid any such impacts. However, where such impacts are necessary, Section 4.15.4 promises 1:1 mitigation with replacement of habitat and/or species in off-site areas.

As to shadows which may affect habitat for sensitive species and/or the species themselves, Section 4.15.4 promises replacement 1:1 mitigation. However, this analysis is inadequate: the shadows may create impacts including creating the potential for an environment for invasive species. The Document should be revised to discuss this potentially significant impact.

The Document states that construction impacts will affect natural resources including the riparian habitat along all Alternatives. The Agencies should revise the Document to include a mitigation measure to require surveys for sensitive plant species be conducted prior to start of construction.

As indicated below, Section 4.17 addresses Project related impacts relating to electromagnetic fields ("EMF"). Although Section 4.17 recognizes potential impacts to various "receptors," the Section fails to discuss impacts on biological resources. Section 4.15 also fails to discuss this issue. The Document should be revised to discuss, analyze and, if necessary, provide necessary mitigation.

Finally, as indicated above, the Document fails to consider any of the Alternatives' downstream impacts of the City's sensitive resources including the Bay and San Diego Creek. The Agencies should revise the Document to include discussion and analysis of these downstream impacts as well as propose adequate mitigation.

IX. Section 4.17: EMF and Impacts.

As indicated above, Section 4.17 fails to address biological receptors in the EMF analysis. The First SDEIS/RDEIR recognized that EMF may affect biological resources, but noted that such impacts are "uncertain." The Agencies should revise the Document to include a discussion of such impacts and if necessary mitigation.

Second, the Document identifies several facilities and equipment locations which may be potentially affected by the Project's EMF. However, the Document fails to consider the EMF impacts in connection with the John Wayne Airport. The Agencies should revise the Document to include a discussion of such impacts and any proposed mitigation. The Document should be revised to include an analysis of such impacts and a discussion of any necessary mitigation.

X. Section 4.18: Recreation, Bike Trails and Sensitive Resources.

As we indicated in our earlier comments, the City has important recreational resources on which the Project and its Alternative may have significant impacts. First, as noted above, the Document focuses solely on upstream impacts and ignores any impacts downstream in the Newport Bay and beyond. The Agencies should revise the Document to discuss these downstream impacts on recreation including boating and other water related activities in the Newport Bay.

Further, although the Second SDEIS/RDEIR recognizes that the Project and its Alternatives may also affect the City's recreational resource of the bicycle trail located adjacent to San Diego Creek, the Document fails to appreciate the significance of this impact. The Document merely states that the Project may visually affect these recreational resources; the Document discusses the shade created by the Project. However, the Document concludes that, without discussion, the Project will not create significant impacts. However, this conclusion does not satisfy the requirements for CEQA analysis. The Agencies should revise the Document to discuss this potentially significant impact and, if necessary, propose any appropriate mitigation measures.

Although First SDEIS/RDEIR recognized in the Section 4.18 on Recreation that construction impacts of the Project would affect recreational resources including closing the trail system along San Diego Creek and require reconstruction of the crossing in order to re-open the system, the Second SDEIS/RDEIR fails to discuss clearly such impacts and provide for necessary mitigation in Section 4.18. Moreover, Section 4.21's discussion of such impacts is inadequate: it merely concludes that the closure and reconstruction are not significant impacts. The Document should be revised to discuss such impacts clearly and in the appropriate section and provide any necessary mitigation.

Further, the Document fails to describe in a clear and understandable fashion the potential impacts on the San Joaquin Marsh. The Document states that Project's proximity to the San Joaquin Marsh will not result in any impacts on this recreational resource. However, the Document contains no discussion of this resource or its recreation value. Further, the Document fails to consider or discuss the Project's noise levels and the distance from the Project to the recreational resource. Without this information, the Document cannot serve to inform the public or enable decision-makers to assess whether the construction and operation of the project will result in significant impacts to this recreational resource.

Further, to the extent that the Project and any of its Alternatives will bring passengers to the coastline or the beaches, the Document should address the impacts of this increased passenger load on the area transportation system and on the recreational resource.

The Agencies should revise the Document to include additional information and analysis on potentially significant short term impacts (i.e., air, noise, restricted access during construction) that could affect the City's and the region's recreational resources including impacts on the bike trail system and the San Joaquin Marsh. Further, the Agencies should bring the Document back from the stratosphere of general impacts and mitigation, and provide specific

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discussion of impacts, address the agency responsible for implementing and enforcing mitigation measures and who if any agency is responsible for any such oversight.

XI. Section 4.19: Construction Impacts and Related Downstream Impacts.

The Document attempts to address construction impacts on each resource or activity. As discussed above, the Document fails to recognize that the Project may have impacts on John Wayne Airport and upon sensitive resources within the City. For instance, as to construction impacts on Transportation activities, the Document attempts to address impacts on traffic operations. However, the Document fails to address any impacts on the operation or facilities which serve the Airport. The Agencies should revise the Document to address construction impacts in connection with the Airport.

XII. Section 4.22: "Summary of Impacts" aka Cumulative Impacts?

Although Section 4.22 is entitled "Summary of Impacts," it attempts to address cumulative impacts. The CEQA guidelines regard the cumulative impacts analysis as a mandatory finding. Cumulative impacts analysis is not a summary of impacts: it is the analysis of the Project's impacts in relation to other projects and other considerations. However, Section 4.22 fails to discuss any such impacts fully.

For instance, Section 4.22.1.3 attempts to discuss the Project's cumulative impacts in relation to the City of Irvine. The City of Irvine has proposed substantial changes to the Irvine Business Complex and contemplates substantial development in this area which is adjacent to the City of Newport Beach. Although the Document recognizes and attempts to address the IBC, the cumulative impacts analysis fails to discuss the IBC and the cumulative impacts of the Project.

Section 4.22.1.4 concludes that the Project will not contribute adversely to cumulative impacts. Among other things, this section states that the Project will not "use natural or non-renewable resources in a wasteful or inefficient manner." However, the Document fails to explain the basis for this value judgment. Moreover, Section 4.22.5 recognizes that the construction of the Project will result in consumption of fuel and construction materials. The Document should be revised to explain this inconsistency.

Finally and importantly, Section 4.22.6 recognizes that the No-Build Alternative is the environmentally superior alternative. The Agencies should consider this alternative carefully before choosing any of the Build Alternatives.

Further, the Document fails to evaluate and analyze the cumulative impacts of the Project and its Alternatives on housing and services. For instance, the cost of housing within the Corridor is high. The Project may decrease property values and thereby result in a concentration of high density, lower income housing will concentrate along the new transportation corridor. The demand for services will grow. The Agencies should revise the Document to address the

cumulative impacts of the Project and its Alternatives on housing and services, and propose necessary mitigation.

XIII. Conclusion:

The Document is lengthy and not generally available. For these reasons alone, the Agencies should recirculate the Document and continue any hearing on the Second SDEIS/RDEIR. More importantly, the Document has significant and important content problems which must be addressed before the Document can be certified. Finally, we note that the No-Build Alternative remains the environmentally superior alternative. Given that the Project benefits only a portion of the residents of the County of Orange and will have unmitigated significant impacts, the Agencies should either revise the Document again or not certify the Document.